

9

PLAN REVIEW

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9.1 ENTITLEMENT PROCESS

The City of Alameda will administer the provisions of the Alameda Point Specific Plan in accordance with the City of Alameda's General Plan, including the Alameda Point Community Plan, and state and federal law. This Specific Plan's chapters, procedures, regulations, standards and specifications shall supersede the relevant provisions of the Alameda Municipal Code as they currently exist or may be amended in the future. Topics not covered by the Specific Plan, the Alameda Point Pattern Book and the Historic Resource Design Guidelines are regulated by the Alameda Municipal Code. Where the Specific Plan and the Alameda Municipal Code are inconsistent, the Specific Plan shall prevail.

As required by California Government Code section 65454, this Specific Plan is consistent with the City's General Plan, including the Alameda Point Community Plan and the General Plan's Land Use Map.

9.2 RELATIONSHIP TO CEQA

This Specific Plan is being adopted by the voters of the City of Alameda through the initiative process. The California Environmental Quality Act ("CEQA") does not apply to the adoption of specific plans enacted by the voters by initiative.

Subsequent discretionary project approvals required by this Specific Plan will require appropriate environmental review under CEQA. It is anticipated that the CIC or the City will prepare an environmental impact report in connection with (i) any proposed development program for the Plan Area

described in a Disposition and Development Agreement entered into by the CIC, ARRA, City and/or a developer, (ii) a master or other tentative map application filed by a developer of the Plan Area, or (iii) other discretionary approvals subject to CEQA. After the completion and certification of such environmental impact report, exemptions from CEQA may be applicable to future development in the Plan Area and it is the intent of the voters that such exemptions be utilized to the fullest extent permitted by law. For example, any residential development project, including any subdivision, or any zoning change that is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified is exempt from CEQA, subject to certain exceptions more particularly described in Government Code section 65457. Similarly, the Plan Area is subject to the Alameda Point Community Plan, Public Resources Code section 21083.3 provides an additional exemption for certain projects consistent with a community plan for which an environmental impact report has been certified.

9.3 SUBDIVISION MAP PROCESS

This section describes the regulations for subdivision of land within the Plan Area. Except as set forth in this Specific Plan, the provisions of the Alameda Municipal Code shall govern the processing and approval of subdivision maps.

No preliminary plan shall be required prior to the filing of a tentative map, vesting tentative map or parcel map within the Plan Area.

9.3.1 Tentative Maps and Vesting Tentative Maps

Land within the Plan Area may be subdivided and developed pursuant to a tentative map or vesting tentative map for any purpose that is consistent with the California Subdivision Map Act. As used in this section, a “vesting tentative map” shall mean a tentative map for subdivision that shall have printed conspicuously on its face the words “Vesting Tentative Map” at the time it is filed in accordance with the Subdivision Map Act. The first master tentative map application submitted by a developer within the Plan Area shall include a proposed Master Grading, Demolition and Infrastructure Plan (“MGDIP”) for the Plan Area.

A tentative map application shall be prepared in accordance with the Alameda Municipal Code. An application for a vesting tentative map shall be filed in the same form, shall be subject to the same submittal and content requirements and shall be processed in the same manner as set forth in the Alameda Municipal Code for a tentative map, except that at the time a vesting tentative map is filed it shall have printed conspicuously on its face the words “Vesting Tentative Map.”

Upon the adoption of this Specific Plan, the City’s Planning Director will act as the City’s “Advisory Agency,” as defined by California Government Code section 66415, with respect to subdivisions within the Plan Area and is assigned the responsibility for approving, conditionally approving or denying an application for a tentative map, vesting tentative map or parcel map within the Plan Area, pursuant to Government Code section 66474.7. In addition, the City Council will, by ordinance within sixty (60)

days after the receipt of the first tentative map application for the Plan Area, designate at least two other City employees qualified to review future subdivision map applications, each of whom may also act individually as the City’s Advisory Agency in the event the Planning Director is not available. The Planning Director and the two other persons designated by the City Council pursuant to this paragraph shall be referred to herein as the “First Tier Advisory Agency.” An application for a tentative map, vesting tentative map, parcel map, and/or lot line adjustment shall be submitted to the Planning Department and the Planning Director shall make the determination of completeness.

Within 50 days of receipt of a complete application, the First Tier Advisory Agency shall set the map for hearing before the First Tier Advisory Agency or refer the map to the Planning Board. The First Tier Advisory Agency may only refer a map to the Planning Board if the map is (i) a residential subdivision of more than 500 dwelling units, (ii) a subdivision of land where the intended use is 500,000 or more square feet of non-residential space, (iii) a master tentative map that requires the preparation of a MGDIP, or (iv) part of an overall application for a development project that requires (A) a Use Permit or (B) a Conformance Determination pursuant to section 9.9 below. The intent is that the First Tier Advisory Agency will review and approve smaller tentative and vesting tentative maps, parcel maps, lot line adjustments, map extensions, and modifications of approved maps. Map extensions shall be governed by Government Code section 66452.6, provided that the initial term of a subdivision map shall be 36 months as authorized by Government Code section 66452.6(a) and this Specific Plan.

To accomplish the purposes of this section, the Planning Board is also designated as an “Advisory Agency” pursuant to Government Code section 66474.7 with respect to subdivisions within the Plan Area and is assigned the responsibility for approving, conditionally approving or denying applications referred to the Planning Board by the First Tier Advisory Agency or that originate with the Planning Board pursuant to the provisions of this section.

The First Tier Advisory Agency, or the Planning Board, as applicable, shall approve, conditionally approve, or disapprove, the tentative map within fifty (50) days of the date the Planning Director’s recommendation is transmitted to the First Tier Advisory Agency or Planning Board, as applicable. The First Tier Advisory Agency, or the Planning Board, as applicable, shall take action within the time period described in and shall otherwise comply with the requirements of Government Code section 66452.1. The provisions of Government Code section 66452.4 shall apply to any tentative map application.

Appeal of the decision of the First Tier Advisory Agency may be taken to the Planning Board, and any decision of the Planning Board may be taken to the City Council, by any party authorized by Government Code section 66452.5 and such appeal shall be governed by the provisions of that section.

9.3.2 Lot Line Adjustments

Except as provided in *Section 9.3.1* above, the Alameda Municipal Code shall govern applications for and processing of lot line adjustments within the Plan Area. The First Tier Advisory Agency established in *Section 9.3.1* is assigned the sole responsibility for approving or denying an application for a lot line adjustment within the Plan Area.

9.3.3 Final Maps

Upon the adoption of this Specific Plan, any subdivider within the Plan Area may file with the City Council for approval a final map in substantial conformance with the approved or conditionally approved tentative map or vesting tentative map, if any, after required certificates or statements on the map have been signed and, where necessary, acknowledged.

The City Council will, at the meeting at which it receives the map or, at its next regular meeting after the meeting at which it receives the map, approve the map if it satisfies the requirements of the Subdivision Map Act.

With respect to any rights to appeal provided in this *Section 9.3*, fees shall be collected from persons appealing or filing an appeal for expenses incurred by the City pursuant to Government Code section 66452.5(f).

9.4 USE PERMITS

If a land use may be permitted with a Use Permit approved by the Planning Director pursuant to *Table: 3-2 Permitted Uses*, the Planning Director shall approve or conditionally approve the Use Permit when the proposed use: (i) is compatible with uses and intensities adjacent to the property, (ii) is in substantial conformance with the General Plan, the Alameda Point Community Plan, and this Specific Plan, and (iii) will not cause damage, hazard, nuisance or other detriment to persons or property in the vicinity. Applications for a Use Permit shall be in the form required by section 30-21.5 of the Alameda Municipal Code.

An application for any Use Permit may be approved by the Planning Director, notwithstanding any provision of Section 30-21.3 of the Alameda Municipal Code. The Planning Director may make approval conditional and may refer applications to the Planning Board.

Notice of a hearing before the Planning Director or Planning Board shall be given pursuant to subsection 30-21.7 of the Alameda Municipal Code, except that notice shall be given to all properties within 300 feet of the subject property and in accordance with Government Code Section 65091. In addition, a summary description of the application shall be included in any required notice. The hearing shall be held in the place designated by the Planning Director in the notice of hearing within a reasonable time consistent with State law.

The Planning Director shall consider all evidence received by the office on the application and consider such evidence when making a decision on the application.

The applicant, a member of the public, or a member of the Planning Board or City Council may appeal the decision of the Planning Director by filing a notice of appeal with the Planning Board within ten (10) days after the decision of the Planning Director. Appeal may also be taken of any decision of the Planning Board to the City Council. Appeals shall be heard by the Planning Board or City Council pursuant to Section 30-25 of the Alameda Municipal Code. Fees shall be collected from persons appealing or filing an appeal for expenses incurred by the City in accordance with State law.

9.5 DESIGN REVIEW

After the adoption of this Specific Plan, a comprehensive set of design guidelines, known as the “Alameda Point Pattern Book” or “Pattern Book,” shall be established for the Plan Area. The Pattern Book will establish the “look and feel” of the community and will include conceptual designs and urban design standards showing basic design features and unifying principles including streetscapes, right-of-way and park furniture, courtyards, color schemes, landscape design for public and private open spaces,

park amenities, and architectural concepts including building materials and landscaping for various building types, including residential buildings, commercial buildings, office park buildings, and mixed-use buildings. The Pattern Book will also include a menu of guidelines, goals and requirements for (i) energy and water resource conservation, and (ii) sustainable architecture, site planning and construction standards.

Once adopted, the design guidelines contained in the Alameda Point Pattern Book will supersede the City's Design Review Manual for the Plan Area, and all future design review procedures and standards will be governed by this Specific Plan and the Pattern Book, except for the review and approval process for "Alteration" of certain historic resources or "New Construction" within the AP-PMU district which shall be governed by *Section 9.6* below. In no event will the Pattern Book conflict with this Specific Plan, including without limitation, the specified development standards and densities herein. If there is any conflict between this Specific Plan and the Pattern Book, the Specific Plan will control. Notwithstanding any provision of this Specific Plan, on and after November 3, 2030, the Pattern Book shall no longer apply to the Plan Area and, thereafter, the City's ordinary design review procedures shall apply within the Plan Area; provided that the Planning Board may extend the life of the Pattern Book by one or more five (5) year term(s) after a duly noticed public meeting.

9.5.1 Process for Adoption of Alameda Point Pattern Book

After the adoption of this Specific Plan, a developer (other than a governmental entity) may submit to the Planning Board an application

for adoption or amendment of the Alameda Point Pattern Book. An application for adoption or amendment of the Alameda Point Pattern Book is an application for issuance of a development permit applicable to future development of the Plan Area by the developer and shall be a quasi-adjudicative approval filed in accordance with the procedures set forth below. The approval of the Pattern Book shall be subject to the Permit Streamlining Act, Government Code section 65920.

The process for the adoption of the Pattern Book is intended to be accomplished through a community-informed process. The applicant shall submit a proposed Pattern Book to the Planning Board for approval. The application for the Pattern Book shall consist of a letter from the developer of the Plan Area requesting approval by the Planning Board and ten (10) copies of the proposed Pattern Book. The proposed Pattern Book shall address all of the mandatory elements described in the first paragraph of *Section 9.5* and such other matters as the developer may determine. The proposed Pattern Book will be available for review and/or purchase (at cost) at the City's Planning Department.

The Planning Board shall hold at least two (2) public meetings to hear comments on the proposed Pattern Book within ninety (90) days after the date the applicant submits its application for the draft Pattern Book to the Planning Board. Notice of the public meetings shall be sent to the applicant and any interested person who requests in writing notice of such meetings and be advertised in a newspaper with citywide circulation at least fifteen (15) calendar days prior to the date of the meetings. Notice of the meetings

shall also be posted in the manner of other meetings of the Planning Board. If reasonably feasible, the proposed Pattern Book shall be made available on the City's website. The applicant may make changes to a pending application based on public comments, with the approval of the Planning Director.

After receiving public comments on the proposed Pattern Book, the Planning Board will adopt, or adopt with changes, or deny the final Pattern Book at a regularly scheduled Planning Board meeting, not later than one hundred twenty (120) days after the date the applicant submits its application for the draft Pattern Book to the Planning Board. Prior to the adoption of the final Pattern Book or any amendment thereto, the Planning Board must find that the proposed design guidelines and development standards in the Pattern Book are in substantial conformance with the goals, intent and regulations of this Specific Plan. If the Planning Board denies the final Pattern Book, within thirty (30) days thereafter the Planning Board will issue a written determination to the applicant citing the specific reasons for the denial.

The applicant, a member of the public, or a member of the City Council may appeal the decision of the Planning Director by filing a notice of appeal with the Planning Director within ten (10) days after the decision of the Planning Board. Appeals shall be heard by the City Council pursuant to section 30-25 of the Alameda Municipal Code. Fees shall be collected from persons appealing or filing an appeal for expenses incurred by the City in accordance with State law.

Significant and substantial revisions to the overall design scheme for the Pattern Book will follow the process outlined above. Notices shall be given in accordance with *Section 9.10* below.

9.5.2 Design Approval Process

Once the Alameda Point Pattern Book is approved by the Planning Board or City Council, all future design review approvals in the Plan Area will be ministerial approvals, unless an application for a development project is inconsistent with the Pattern Book. As to each ministerial approval, the function of City staff at the time an application for building permit is submitted will be to ensure conformance with the Specific Plan and Pattern Book design standards prior to issuing building permits.

If an application for a development project within the Plan Area is inconsistent with the Pattern Book, the proposed design shall be subject to the Conformance Determination process described in *Section 9.9* below.

9.6 HISTORIC PRESERVATION REVIEW PROCESS

9.6.1 Summary

This Specific Plan seeks to protect Alameda's unique military legacy by facilitating the reuse of key historic buildings, objects, structures, and landscaped areas within the Plan Area. The Specific Plan recognizes the important role of the former NAS Alameda in the City's history and encourages preservation and reuse of historic buildings, structures, open space, and landscape elements in the Plan Area in order to promote the City's cultural, educational, and economic vitality today and for future generations. At the same time, the Specific Plan, in designating certain areas for new construction, recognizes that rehabilitation and/or repair of all historic resources¹ within the former NAS Alameda is not feasible and that certain portions of the Plan Area must be redeveloped in order to permit the revitalization contemplated by this Specific Plan. This section mandates the creation of Historic Resource Design Guidelines and establishes specific procedures for project review that apply to the alteration and demolition of historic resources as well as new construction within the Historic District. This section supersedes the historical preservation provisions of the Alameda Municipal Code, including, without limitation Chapter XIII, Article VII.

¹ The terms "historic resource" and "resource" are used throughout to describe any building, object, structure or landscape feature evaluated as either contributing to the Historic District or as historically significant individually. The terms refer to both existing resources and resources that are not currently recognized but may be recognized in the future.

9.6.2 Background

Former NAS Alameda, which was constructed beginning in 1938, includes a series of older buildings and other features that are associated with American military history during and following World War II. As the result of an initial National Historic Preservation Act ("NHPA") Section 106 consultation between the Navy, the State Office of Historic Preservation and the City that resulted in a Memorandum of Agreement (1999 MOA), the City previously designated a portion of the former NAS Alameda as a local historic district, known as the Alameda Naval Air Station Historic District ("Historic District"). The Historic District and its contributing resources as currently designated are depicted in *Figure 9-1: Historic Resources*. It is anticipated that the Historic District boundaries and/or final list of contributing resources may be revised during the final NHPA Section 106 consultation prior to Navy transfer of the former NAS Alameda property and that such revisions will be memorialized in a final agreement (together the 1999 MOA and final agreement are referred to as the "Consultation Agreements"). If so, such changes (revised boundary and/or list of contributing resources) shall apply to this Specific Plan and be documented and referred to as the "Historic District", and the City shall make any conforming changes to its local Historic District. All resources not specifically designated as contributing under the Consultation Agreements shall be deemed non-contributing elements, which are not historic resources.

Following base closure, most of the base's military buildings have been vacant and many may be economically and functionally obsolete. Potential

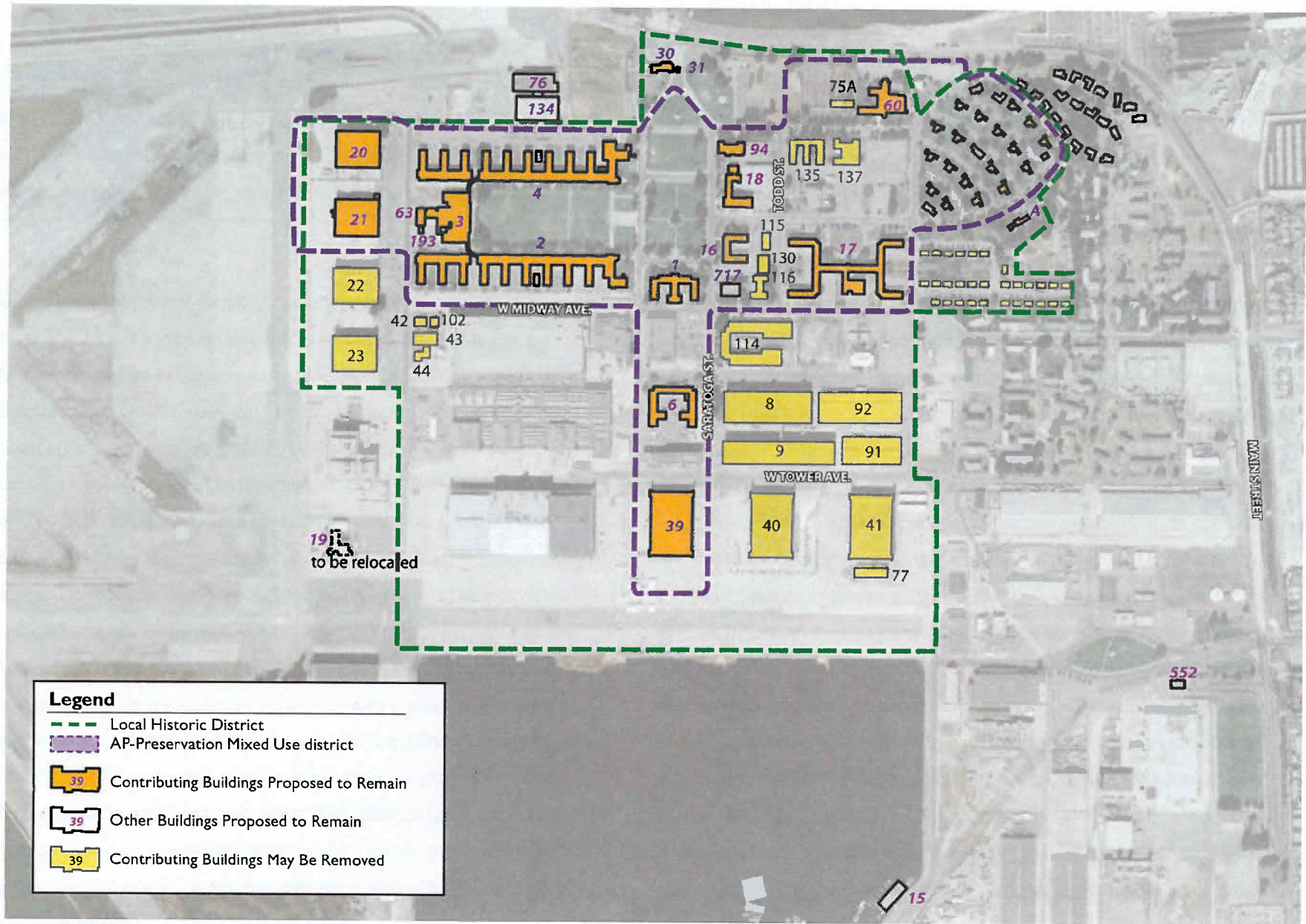


Figure 9-1: Historic Resources

Not to Scale
 North

flood inundation places many structures at risk, as described in *Chapter 2: Plan Background*. In addition, due to changes in the Uniform Building Code, virtually all of the subject buildings are not in conformance with the current codes for structural integrity, mechanical, electrical, plumbing and fire. The potential for reusing many of these buildings has been compromised.

The AP-PMU district is the primary location in this Specific Plan for the preservation and reuse of buildings, structures, landscapes, and views. It contains the cross-axial open space at the heart of the Historic District around which historic buildings are arrayed. The following factors led to the establishment of the AP-PMU district:

- The desire to protect what typifies Alameda's unique military legacy;
- The historic value of the central axial open space corridors in the AP-PMU and the buildings arranged around them;
- The concentrated and efficient arrangement of historic buildings in the AP-PMU exemplifies the character defining features of the Historic District and, due to the scale and relationship of the buildings, the AP-PMU more easily lends itself reuse;
- The diversity of uses that the AP-PMU can accommodate; and
- The need to provide space outside the AP-PMU for new construction that will subsidize and support the costs to preserve buildings within the AP-PMU.

The Specific Plan concentrates on preserving historic resources within the AP-PMU. Outside the AP-PMU, the Specific Plan sets forth an alteration process and provides incentives for reuse, but clearly anticipates that

demolition and new construction will take place.

9.6.3 Incentives

This Specific Plan promotes the preservation of historic resources through the use of preservation incentives. The Specific Plan encourages the use of federal tax credits and conservation easements by the property owner for qualifying structures and landscapes. Incentives to be made available by the City for preservation shall include Mills Act and other property tax abatement, Community Development Block Grant funds and rehabilitation loans, if available. In addition, the City shall provide technical assistance including fee waivers, permit streamlining, referrals to private sector consultants and contractors, and coordination with nonprofit and other local agencies. In addition to the development standards for reuse set forth in *Chapter 7: Development Standards*, the State Historic Building Code shall be applicable in its entirety to development of historic resources within the Plan Area.

9.6.4 Historic Resource Design Guidelines

Historic Resource Design Guidelines ("HRDG") will be prepared as part of the Consultation Agreements and will provide guidance for the rehabilitation of historic resources within the AP-PMU and the Historic District. The HRDG will contain a detailed inventory of all historic resources and important character-defining features as well as detailed guidelines for the Alteration of historic resources, compatible New Construction, and the treatment of historic materials. A landscape plan guiding the maintenance and adaptation of historic landscape areas will also be included. In addition, the HRDG will establish criteria for new construction and alteration of non-

contributing structures within the AP-PMU in order to maintain the historic character of the AP-PMU. Amendment of the HRDG is subject to the procedures set forth in *Section 9.9*.

9.6.5 Review Process

Applications for the Alteration of historic resources within the Historic District and applications for New Construction in the AP-PMU will be reviewed for conformance with the HRDG. Applications for new construction will be reviewed for conformance with the Pattern Book design guidelines established for the Project (see *Section 9.5*). Applications for demolition shall be evaluated pursuant to *Section 9.6* of this Specific Plan.

Alteration, New Construction and Demolition within the Historic District shall be reviewed and approved solely as provided for in this Specific Plan.

These actions are defined as follows:

“Alteration” is defined here as any addition, or exterior modification, improvement, repair, or replacement of character-defining elements, which alter or change the original materials or appearance of an historical resource, including, but not limited to, massing, roof forms, porches, finish materials, windows, and decorative details. The addition and alteration of awnings and signs, excluding historically designated signs, interior modifications, improvements or repairs, removal of trees or landscaping (except that removal of landscaping features specifically identified as contributing resources shall be subject to the Demolition requirements in *Section 9.6.5.1.2*) and ordinary maintenance or repair that does not involve changes in materials or exterior design or appearance are not

included in this definition. As used herein, the term Alteration also includes rehabilitation or “the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.”²

“New Construction” is defined here as the addition of a new building or structure. “Demolition” is defined here as the demolition or destruction of the entirety of a building, structure, site or historic landscape feature.

9.6.5.1 Applications for Historic Resources

9.6.5.1.1 Alteration

Alteration of historic resources within the Historic District requires design review and approval. All applications for Alterations within the Historic District shall be submitted to the City Planning Department and shall contain the following information:

- Name, signature, and address of the applicant and of all persons owning any interest in the property included in the application.
- Location of the subject property (address or vicinity).
- Legal description of property.
- Specific Plan land use district designation(s) of the property.
- Description of the proposed facility or use, including architectural

²National Park Service, Secretary of the Interior’s Standards for the Treatment of Historic Properties With Guidelines for Rehabilitating, Restoring, and Reconstructing Historic Buildings, (62) 1995.

and site development drawings to scale.

- Written statement describing the request and explaining how each of the required findings can be made.
- Such other forms and documents as are necessary to determine conformance with the provisions of the Specific Plan.

Upon submittal of a complete application, if the Planning Director deems that the proposed Alteration is in substantial conformance with the City's General Plan (including the Alameda Point Community Plan), this Specific Plan and the HRDG, the Planning Director shall approve the application. If the Planning Director concludes that an Alteration is not in substantial conformance with the HRDG and the City's General Plan and this Specific Plan, the Director shall, within thirty (30) days of the date the application is deemed complete, refer the matter to the Historical Advisory Board (HAB) for recommendation to the Planning Board. HAB shall set the matter for a public meeting to be held within forty-five (45) days following the date of the referral from the Planning Director and, based on the findings set forth below, shall recommend that the application be approved, conditionally approved or denied. Notwithstanding Alameda Municipal Code section 13-21.3, HAB shall transmit its recommendation to the Planning Board on the next business day following the public hearing. The matter shall be set for public hearing at the next available regularly scheduled meeting of the Planning Board but in all cases shall be heard within fifty (50) days after the Planning Board receives the HAB's recommendation. The Planning Board shall have discretion to approve, conditionally approve or deny the application; provided that the Planning Board shall approve the application if

it can make the findings below.

ALTERATION FINDINGS

1. Approval of the application is substantially consistent with the General Plan and the Alameda Point Specific Plan; and
2. The proposed Alteration is (i) substantially consistent with the HRDG or the Secretary of Interior's Standards or (ii) one or more of the following findings can be made:
 - a. The resource is noncontributing or the resource no longer meets local, state or national criteria as an historic resource.
 - b. The resource no longer exhibits the distinctive features, finishes and construction techniques or examples of craftsmanship that characterize an architectural style or historic property.
 - c. The resource has been substantially damaged by fire, earthquake, flood or other Act of God.
 - d. The resource has become a detriment to the community and the condition making the resource a detriment to the community cannot be readily cured.
 - e. Alteration that does not conform to the HRDG is necessary in the interest of public health, safety or general welfare.
 - f. Ordinary maintenance or repair involves a change in design, material or appearance such that the resource can no longer convey its historic significance.
 - g. For Alterations within the AP-PMU, the Alteration is reasonably required in order to provide utility services,

flood protection or other subdivision map act required improvements to the Project; or for Alterations outside of the AP-PMU, the applicant has determined that the Alteration is required in order to provide utility services, flood protection or other subdivision map act required improvements to the Project.

- h. Physical constraints, such as geotechnical, flooding or other environmental conditions render Alteration in accordance with the HRDG impracticable.
- i. Alteration conforming with the HRDG is not economically viable applying reasonable investor criteria (e.g., the investor will not receive a reasonable rate of return or cost to rehabilitate cannot be recovered through market-rate lease or sale) after taking into account the available preservation incentives described in *Section 9.6.3* of this Specific Plan.
- j. The resource is located outside the AP-PMU and the proposed Alteration will allow for a use permitted or conditionally permitted by the Specific Plan.
- k. The resource is located outside the AP-PMU and the proposed Alteration is reasonably required in order to implement the goals and objectives of this Specific Plan or to carry out Public Trust, USFWS or NMFS or other State or federal law objectives or requirements.

The determination of the Planning Board may be appealed to the City

Council per Alameda Municipal Code section 30-25. If appealed, the City Council shall have discretion to approve, conditionally approve or deny the application; provided that the City Council shall approve the application if it can make the findings set forth above with respect to the application for Alteration.

In no event may the HAB, Planning Board or City Council insert any condition of approval that would restrict the applicant from using federal historic tax credits for rehabilitation of historic resources without the consent of the applicant. Incentives for reuse shall be provided consistent with *Section 9.6.3* above.

9.6.5.1.2 Demolition

Demolition of historic resources that have been or shall be approved for demolition by the Consultation Agreement or that are located outside of the AP-PMU is permitted by right. The application shall be submitted to the Building Department for issuance of the demolition permit. Demolition of historic landscape features within the AP-PMU that are diseased or present a danger to public health safety and welfare do not require a permit and may be removed by right upon provision of a written report to the Planning Director detailing the intended removal.

Except as provided above, applications for Demolition of historic resources within the AP-PMU shall be submitted to the City Planning Department and shall contain the following information:

- Name, signature, and address of the applicant and of all persons owning any interest in the property included in the application.
- Location of the subject property (address or vicinity).
- Legal description of property.
- Specific Plan land use district designation(s) of the property.
- Written statement describing the request and explaining how each of the required findings can be made.
- Demolition Plans.

Within 30 days of receipt of a complete application for demolition of historic resources within the AP-PMU, the Planning Director shall forward the application for public hearing before the Planning Board. The Planning Board shall set the matter for public hearing at the next regularly scheduled hearing of the Planning Board and within fifty (50) days after the Planning Board receives the application. Based on the findings set forth below, the Planning Board shall recommend that the application be approved, conditionally approved or denied. The Planning Board shall have discretion to approve, conditionally approve or deny the application; provided that the Planning Board shall approve the application if it can make the findings below:

DEMOLITION FINDINGS

1. Approval of the application is substantially consistent with the General Plan and the Alameda Point Specific Plan; and
2. One or more of the following findings can be made:

- a. The resource no longer exhibits the distinctive features, finishes and construction techniques or examples of craftsmanship that characterize an architectural style or historic property such that the resource no longer meets local, state or national criteria as an historic resource.
- b. The resource has been substantially damaged by fire, earthquake, flood or other Act of God.
- c. The resource has become a detriment to the community and the condition making the resource a detriment to the community cannot be readily cured.
- d. Demolition is necessary in the interest of public health, safety or general welfare.
- e. Ordinary maintenance or repair involves a change in design, material or appearance such that the resource can no longer convey its historic significance.
- f. For Demolitions within the AP-PMU, the Demolition is reasonably required in order to provide utility services, flood protection or other Subdivision Map Act required improvements to the Project.
- g. Physical constraints, such as geotechnical, flooding or other environmental conditions, render rehabilitation impracticable.
- h. Alteration conforming to the HRDG is not economically viable applying reasonable investor criteria (e.g., the investor will not receive a reasonable rate of return or cost

to rehabilitate cannot be recovered through market-rate lease or sale) after taking into account preservation incentives described in *Section 9.6.3* of this Specific Plan.

The determination of the Planning Board may be appealed to the City Council per Alameda Municipal Code section 30-25. If appealed, the City Council shall have discretion to approve, conditionally approve or deny the application; provided that the City Council shall approve the application if it can make the findings set forth above with respect to the application for Demolition.

9.6.5.2 Applications for Non-Historic Resources

9.6.5.2.1 Alteration

Alteration of non-contributing resources inside the AP-PMU requires design review and approval in accordance with the process and timing set forth in *Section 9.6.5.1.1* above. Outside the AP-PMU, Alteration of non-contributing historic resources requires design review and approval in accordance with the process set forth in *Section 9.5.2* above.

9.6.5.2.2 Demolition

Demolition of non-contributing resources is permitted by right. The demolition application shall be submitted to the Building Department for issuance of a demolition permit.

9.6.5.3 Applications for New Construction

9.6.5.3.1 Application for New Construction in the AP-PMU

Within the AP-PMU, each application for New Construction requires design review and approval in accordance with the Pattern Book. In addition, new construction shall be reviewed for compatibility with historic resources under the HRDG. All applications for New Construction within the AP-PMU shall be submitted to the City Planning Department and shall contain the following information:

1. Name, signature, and address of the applicant and of all persons owning any interest in the property included in the application.
2. Location of the subject property (address or vicinity).
3. Legal description of property.
4. Specific Plan land use district designation(s) of the property.
5. Description of the proposed facility or use, including architectural and site development drawings to scale.
6. Written statement describing the request and explaining how each of the required findings can be made.
7. Such other forms and documents as are necessary to determine conformance with the provisions of the Specific Plan.

Upon submittal of a complete application, if the Planning Director deems that the proposed New Construction is in substantial conformance with Pattern Book and the HRDG, the Director shall approve the application and issue

a decision within thirty (30) days of the date the application was deemed complete. If the Planning Director concludes that the proposed New Construction is not in substantial conformance with the Pattern Book and the HRDG, the Director shall, within thirty (30) days of the date the application is deemed complete, refer the matter to the Historical Advisory Board (HAB) for recommendation to the Planning Board. HAB shall set the matter for a public meeting within forty-five (45) days following the date of the referral from the Planning Director and, based on the findings set forth below, shall recommend that the application be approved, conditionally approved or denied. HAB shall transmit its recommendation to the Planning Board on the next business day following the public hearing. The matter shall be set for public hearing at the next available regularly scheduled meeting of the Planning Board within fifty (50) days after the Planning Board receives the HAB's recommendation. The Planning Board shall have discretion to approve, conditionally approve or deny the application; provided that the Planning Board shall approve the application if it can make the findings below.

NEW CONSTRUCTION FINDINGS

1. Approval of the application is substantially consistent with the Alameda General Plan and this Specific Plan; and
2. One or more of the following findings can be made:
 - » New Construction conforms to the HRDG or New Construction that does not conform with the HRDG is necessary in the interest of public health, safety or general welfare.

- » Physical constraints, such as geotechnical, flooding or other environmental conditions, render New Construction in accordance with the HRDG impracticable.
- » New Construction that does not conform to the HRDG is reasonably required to implement the requirements of other State or federal objectives or requirements.

9.6.5.3.2 Application for New Construction outside the AP-PMU

Outside the AP-PMU, applications for New Construction require design review and approval in accordance with the Pattern Book pursuant to the process set forth in *Section 9.5.2*.

9.7 DENSITY BONUS

When an applicant seeks a density bonus for a housing development within the Plan Area, the City shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as described in Government Code section 65915.

9.8 AMENDMENTS TO THE SPECIFIC PLAN

This Specific Plan is being adopted by the voters of the City of Alameda.

This Specific Plan may only be amended in accordance with the Alameda Point Revitalization Initiative.

Conformance Determinations are not amendments and may be approved by the City's Planning Director, Planning Board or City Council, as described below in *Section 9.9*.

9.9 CONFORMANCE DETERMINATIONS

9.9.1 Purpose

The purpose of a Conformance Determination is to determine whether a proposed development or use that constitutes a minor variation from Specific Plan provisions is consistent with the Specific Plan and may proceed without an amendment to the Specific Plan. A proposed minor variation shall be found consistent if it substantially conforms to the standards, regulations, and guidelines of the Specific Plan, the Alameda Point Community Plan and the General Plan. Where appropriate, a Conformance Determination may be combined with a Use Permit. An application for a Conformance Determination shall be a quasi-adjudicative approval filed in accordance with the procedures set forth below. The Permit Streamlining Act, Government Code section 65920 et seq., shall apply to applications for Conformance Determinations.

Minor variations may be approved for a proposed development or use for the following aspects of the Specific Plan:

1. Allowance of a use not listed in *Table 3-2: Permitted Uses by Land Use Category*, if the proposed use, and proposed size and intensity of the proposed use, does not adversely affect other uses permitted in the applicable land use district described in *Chapter 3: Land Use*.
2. Minor changes in the size and location of public facilities, but no net reduction in City-owned lands designated for public park purposes and/or recreational uses and opened to the public for public park purposes and/or recreational uses.
3. Modifications to the Pattern Book or the HRDG.
4. Transfer of residential unit density from one or more designated areas to other areas, provided that (i) the overall total number of residential units permitted by this Specific Plan is not exceeded, and (ii) no more than twenty percent (20%) of the maximum number of residential units permitted within a land use district shown on *Figure: 3-1 Land Use* is transferred to another land use district.
5. Changes to numbers or letters establishing or referencing text sections or figures, including references to state laws or Alameda Municipal Code sections, or interpretations of Specific Plan text to clarify clerical or other similar errors.
6. Increases in maximum FAR pursuant to *Table 7-1: Development Standards*.
7. Modifications to street routes and locations, travel lane width, curb types, curb radii, and sidewalk and verge locations and sizes. These modifications also require the review of the application by the Fire Department and City's Department of Public Works.

8. Modifications to the park and public space designs adopted in the Pattern Book. These modifications also require review of the application by the City Parks Department.
9. Transfers of employment-generating use density from one or more areas to other areas, so long as (i) no more than twenty percent (20%) of development square footage from one area is transferred to another area and (ii) such variations shall not result in an increase of the total square footage identified for that use in the Specific Plan.
10. Transfers of land use designations from one area within Alameda Point to another area, so long as such changes do not require a subsequent or supplemental environmental impact report pursuant to Public Resources Code section 21166.
11. Minor adjustments in the boundaries of the land use designations illustrated in Figure 3-1: Land Use. Boundary changes that result in an increase or reduction of less than twenty percent (20%) of the land area of the land use designation as shown on Figure 3-1 shall be deemed a minor variation, so long as such changes do not require a subsequent or supplemental environmental impact report pursuant to Public Resources Code section 21166.
12. Variations from the signage requirements of the Alameda Municipal Code.
13. Transfers of parking rights pursuant to *Table 7-3: Parking Standards*.
14. Minor deviations from Table 7-1: Development Standards that result in development consistent with the Project's intent to create a pedestrian friendly environment.

Variations from the planned Land Use Program, including transfers of housing units or employment-generating density, may require mitigation of

potential adverse impacts such as utility infrastructure capacity, traffic or parking. Transfer of development intensity and land uses as provided for in this section, as well as minor adjustments to the boundaries of the land use designations, are intended to provide flexibility in the implementation of the Specific Plan.

9.9.2 Appropriate Authority

The Planning Director is the "Appropriate Authority" to hear and decide applications for a Conformance Determination as provided in this *Section 9.9*. Notwithstanding the foregoing, the Planning Director shall have the discretion to refer an application for a Conformance Determination to the Planning Board for a noticed public hearing and determination. In such case, the Planning Board shall become the "Appropriate Authority." If the Conformance Determination is combined with a Use Permit, the decision-making body for the Use Permit shall be the same decision-making body for the Conformance Determination.

9.9.3 Submittal Requirements

All applications for a Conformance Determination shall contain the following information in addition to any standard permit application requirements required by the Alameda Municipal Code:

1. Name, signature, and address of the applicant and of all persons owning any interest in the property included in the application.
2. Location of the subject property (address or vicinity).
3. Legal description of property.
4. Specific Plan land use district designation(s) on the property.

5. Description of the proposed facility or use.
6. Written statement describing the request and explaining how each of the required findings can be made.
7. Such other forms and documents as are necessary to determine conformance with the provisions of the Specific Plan.
8. If appropriate, a site plan illustrating the use, development, structure(s), building(s), or modification(s) of standards, as applicable. Site plans must be drawn to a scale satisfactory to and in the number of copies prescribed by the Appropriate Authority.

9.9.4 Required Findings

The Appropriate Authority, acting upon any Conformance Determination request as provided in this section, shall approve, approve with conditions, or deny the request based on findings as specified below. In order to approve a proposed development or use, the Appropriate Authority must make all of the following findings for the development or use, as proposed or subject to specified conditions:

1. If the proposed development or use varies from the Specific Plan, such variation is minor in nature.
2. The development or use is substantially consistent with the general plan, Alameda Point Community Plan, Specific Plan and substantially conforms to the standards, regulations, and guidelines of the Specific Plan and other applicable City ordinances.
3. The development or use will not adversely affect public health, safety, or welfare.

9.9.5 Public Hearings

The Planning Director shall have the discretion to hold a public hearing regarding the Conformance Determination. If the determination is referred to the Planning Board, a public hearing shall be conducted.

9.9.6 Time Limit

If the Planning Director is the "Appropriate Authority," the Planning Director or his or her designee shall act on an application for a Conformance Determination within 60 days from the date of receipt of an application and all required submittals. If the Planning Director refers the matter to the Planning Board as the "Appropriate Authority," the Planning Board will publish notice of its public hearing within sixty (60) days from the date of receipt of an application and all required submittals. Any public hearing shall commence within thirty (30) days from the date of publication of the notice.

9.9.7 Appeals

The applicant, a member of the public, or a member of the City Council may appeal the decision of the Appropriate Authority by filing a notice of appeal with the Planning Director within ten (10) days after the decision of the Appropriate Authority. Appeals of the Planning Board's decisions, acting as the Appropriate Authority or as a reviewing body of the decision of the Planning Director pursuant to this section, may also be taken to the City Council. Appeals shall be subject to section 30-25 of the Alameda Municipal Code. Persons requesting an appeal shall pay a fee to the City in an amount necessary to recover the City's costs of processing the appeal.

9.10 HEARING NOTICE

Any public hearing required by this Chapter shall be noticed in the manner provided in the City's Zoning Ordinance and, if applicable, Government Code section 65091. The City shall notify the applicant and any interested parties of the final action taken on the application by first class mail.

9.11 MATTERS OF INTERPRETATION

Every effort has been made to provide policies and regulations that are clear; however, interpretations will be necessary when specific and unusual circumstances arise. The Planning Director is responsible for interpretation of the Specific Plan.

If any situation arises in the implementation of the Specific Plan that is not addressed by specific site development regulations, or, if an issue, condition, or situation arises that is not clearly addressed in the Specific Plan, the Planning Director shall provide an interpretation based on such City goals, policies, plans, ordinances and requirements as are most closely related to the subject matter of the issue or situation to be interpreted.

The approved Specific Plan is intended to be interpreted and applied in favor of the purposes and intent of this Specific Plan and the Alameda Point Revitalization Initiative. If the Director nevertheless determines that a conflict exists between the Specific Plan and the Alameda Municipal Code, the provisions of the Specific Plan shall take precedence.

Administrative interpretations of the Planning Director pursuant to this *Section 9.11* may be appealed by the applicant to the Planning Board.

9.12 SEVERABILITY

If any provision of this Specific Plan is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions of this Specific Plan which can be implemented without the invalid provision, and, to this end, the provisions of this Specific Plan are declared to be severable.

9.13 SPECIFIC PLAN COMPLIANCE AND ENFORCEMENT

No building permit, grading permit, land use discretionary permit, or other permit for a land use subject to the provisions of the Specific Plan may be approved if it is found to be inconsistent with the Specific Plan.

The Planning Director is responsible for enforcing the provisions of the City's Zoning Ordinance and the Specific Plan. The regulatory elements of the Specific Plan are enforceable pursuant to the enforcement requirements of the Alameda Municipal Code.